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ABSTRACT

In 1994 Arkansas's school-finance system was declared unconstitutional. A compromise plan was drawn up during the following year to appease both the state legislature and the governor. This paper discusses the confusing and contradictory aspects of three pieces of the state's school-finance legislation: Act 916, Act 917, and the Biennial Appropriations bill. The paper focuses on problems and inconsistencies in the laws, including funding priorities, incentive funding, the use of miscellaneous funds, rewards for debt, spending of Additional Base Funding, and the use of real dollars. Finally, Act 917 violates the concept of vertical equity and places the constitutionality of the new law in jeopardy. (LMI)

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# IS ARKANSAS' NEW SCHOOL FINANCE PLAN REAL?

**A paper delivered at the**
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**New York City**
**April 1996**

**by**

BEST COPY AVAILABLE

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While 1994 was a most disturbing year for Arkansas school finance, 1995 proved to be as largely confusing. In 1994, the school finance system was declared unconstitutional in Chancery court. Meanwhile the legislature had set up a committee which promised the teacher and tax payers of the state a fair and simple finance system. When they made their report in December of 1994 it was evident that it was but a rehash of the unconstitutional system.

The governor in January of 1995 presented pieces of what he claimed was his plan for school finance. The problem was its features changed weekly. The legislature dug in its heels and a Mexican standoff ensured. Finally in April, the Speaker of the House tired of this situation decreed that no appropriation bills would be taken up until the school finance quandary was resolved. Since appropriations are close to the heart of any legislator a compromise was researched between the competing plans.

**The Compromise**

Instead of a fair, simple plan, the state now has a highly confusing and contradictory one. The compromise seems to have been made rapidly without serious thought.

Like many other hurried compromises, the Arkansas school finance plan creates contradictions and doubt as to its constitutionality. Three pieces of legislation must be looked at to try to understand it. These are Act 916, 917, and the Biennial Appropriations bill.

Act 916 does but one thing. it requires all districts to levy 25 mills for maintenance and operation or face a ten percent surcharge on the resident's state income tax.

The Biennial appropriations bill demonstrates how previously extraneous expenditures are adopted into the Public School finance plan.

Act 917 contains the bulk of the detail and contradictions such as putting isolated funding in twice.

**Act 917**

The author or authors of Act 917 seemed to have preferred confusion to clarity as there are numerous messy points, missing definitions and what seem to be contradiction in the law. It shows every sign of having been written in a hurry.

It starts in Section 3 when the law finally gets around to school funding and stops philosophizing. First it lists five kinds of local millage and defines two. It lists eighteen sources of state aid and includes a 19th which is not named . It contains priorities but only for some funds not others. The priorities are:

1. State Equalization Funding
2. Student Classroom Teacher Funding
3. Student Unit Funding, and
4. Student Needs Funding

The oddity of these priorities is that other funding sources are given a first priority along with Equalization Funding, The super funds are: (1) General Facilities Funding; (2) Growth Facilities Funding; (3) Isolated Funding (maybe), (4) Student Growth Funding; and (5) Debt Service Funding Supplement

At present it would seem that only category 1 can be funded in 1996-97. Therefore, all expenditures of a district including Transportation, Employees Health Insurance, Teachers Salaries, Special Education, Vocational Education, Teacher Retirement, At-Risk Funding, Textbooks, Alternative Education including Gifted and Talented Education and Restructuring and Staff Development must come out of the State Equalization Funding. At present that funding is estimated at $3900 . What will be left for instruction?

**The Mirrors**

Actually what the biennial appropriation act does is to try to create equity with mirrors. By passing down Transportation, Retirement Contribution and Health Insurance payments to the schools the average expenditures per ADM is raised. If the same number of dollars per ADM are given to a poor as well as a wealthy district the percentage of the rich district,

which the poor district represents, rises. Therefore, the illusion of equity is created although no real relief is given to the poor district. The latter receives no added dollars with which to educate children, merely pass through money. The situation tries to look like equity but in reality is only masking continued inequity.

**Incentive Funding**

Then there is the matter of incentive funding the results of which are not explained. A district is permitted to levy a tax over the required 25 mills for maintenance and operation not to exceed 125% of the Base Local Revenue per Student. Base Local Revenue is defined as:

1. If Category 1 is fully funded it is the local revenue per student in the district with the highest local revenue per student.

2. If Category 1 is not fully funded then it is,

   (a) The total state aid for Equalization Funding per student

   (b) 98% of the base millage (25) times the total state assessment

   (b) 75% of the preceding years miscellaneous funds.

   The sum is then divided by the state ADM.

The amount may or may not be the equivalent of Minimum State and Local Revenue per ADM. If it is not there it seems to be an unexplained situation. If it is, then it must equal 80% of the Total State and Local Revenue per ADM of the district at the 95th percentile.

Total State and Local Revenue is defined as:

1. The districts M&O millage times 98 percent of the districts assessed valuation;

2. The district debt service millage not required to pay off debt times 98 percent of the assessed valuation;

3. The district's current expenditure millage times 98% of the district's assessed valuation; and

4. (a) State Equalization Funding

   (b) Student Classroom Teacher Funding

(c) Student Unit Funding

(d) Vocational Funding

(e) General Facilities Funding

(f) Student Growth Funding

All items are added together and divided by the local districts ADM. It should be noted that there are several categories of funding missing from this list. Therefore, the figure will not be a true total.

There is one other drawback to this. The law contains no definition for current expenditure millage. Exactly what it is, is something of a mystery.

Now suppose the district at the 95th percentile raises its M&O millage to 125% of the Base Local Revenue. Does this mean that the state must come up with sufficient funds to raise other districts or does it mean that these districts will not be at 80 percent of that at the 95th percentile? One or the other must be true.

**Miscellaneous Funds**

Another insistent oversight or perhaps choice is the use of only 75% of the miscellaneous funds in calculating a districts wealth. This is one invitation to inequity. Unless all of the money districts have available is placed on the table there will be an inequitable distribution of funds.

**Isolation**

Then there is the mystery of isolation. One part of the law makes it of super priority. Another makes it part of the fourth priority of Student Needs Funding. The interesting question is which is it. Do isolated schools get reimbursement up front or must they wait for full funding?

**Debt not Wealth**

Another oddity is the Debt Service Funding Supplement. It provides for an amount up to $15, depending on state appropriations, per mill of capital outlay tax times the ADM of the district to each district in the state. This has permitted districts with a high capital outlay but low

M&O millage to avoid raising their maintenance and operations millage to 25 as the state funds are used to substitute for millage yield thus freeing up capital outlay millage to become M&O. This has been a boon to growing districts and districts with large amounts of debt. But it is not aid to poor districts.

Districts where debt limits are too low because of low assessment and/or where a mill produces little in income have not been able to go into debt to the extent of wealthier districts. Yet it is the latter who gets the state aid. There is a wealth index in the formula. However, this will only help the poorer district with the same debt as a wealthier one. Debt is rewarded not poverty.

**The Mystery Fund**

Although not mentioned in the law, there exists in the appropriations bill the sum of 20 million dollars labeled Additional Base Funding. Just how and on what is this to be spent?

**Real Dollars**

- A truly foolish feature of Act 917 is its use of real dollars.
- Section J(1) requires that $1548.59 per ADM be spent on teacher salaries by local districts.
- Section (T) defines Student Classroom Teacher Funding as an amount equal to 112 percent of $1633 per ADM.
- Section 8 out lines precise salaries to be paid as minimums from 1995-96 to 2009-10.

Now using precise dollars in an era of continuous inflation is to put it kindly, stupid. Projecting the $20,000 starting salary two years in advance it is evident that according to the Consumer Price Index that it will lose 8.1% in purchasing power by 1997. If the loss in the last two years remains constant. In July of 1993, the CPI stood 144.1. In July of 1995 it was 152.5

A projection to 2009-10 is even mere frightening. In July 1980 the CPI was 82.7. If it were to increase by the same amount to 2010, it would be 222. 3. This represents a loss of almost half in purchasing power. These salary amounts should be changed immediately and made into either a weight or an index. Otherwise a teacher with 14 years experience will have less purchasing power in their salary than they had as a beginner.

**Equity**

Now that almost all districts are taxing themselves at 25 mills for maintenance and operation, it would seem that Arkansas is on the verge of equity. In fact it will be close to horizontal equity. Horizontal equity means the equal treatment of equals and adds up to equal dollars per pupil to a large extent. Establishing it was the point of both the Alma and Lakeview cases.

However this will not solve the equity problem. There is also another form of equity--Vertical Equity. This means unequal treatment for unequals. Translating that into more understandable language it means that spending the same amount of funds on a higher than normal cost student, regardless of the school they attend in the state. This means the same amount will be devoted to a special education student if a similar exceptionality, a vocational education student taking a similar program, a gifted and talented student and an at-risk student regardless of their residence or school attended.

Act 917 violates vertical equity. It does so chiefly by setting caps on the number of students classified in each of the groups. For example for special education,

> (2) Local School Districts shall expend state and local revenues on students evaluated as special education students in accordance with existing federal and state laws and Department regulations as such laws and regulations shall be amended from time to time and based on the following criteria:
>
> (A) Calculate a three-year average percentage not to exceed twelve and one-half percent (12.5%), based on the three (3) immediately preceding December 1 counts of students in special education; and
>
> (B) Multiply the three-year average percentage not to exceed twelve and one-half percent (12.5%) times the average daily membership and multiply the results times sixty-four hundredths (.64) times the Base Local Revenue Per Student.
>
> (3) Local School Districts shall expend from state and local revenues not less than the following amounts on Vocational Education students in accordance with rules and regulations promulgated by the State Board of Education: The previous year's ADM participating in vocational education programs multiplied by thirty-four hundredths (.34) times the Base Local Revenue Per Student. Participating Local School Districts shall transfer to approval vocational centers all funds that districts have previously transferred to such centers on an ADM basis.
>
> (4) Local School Districts shall expend from state and local revenues not less than the following amounts on Alternative Education Programs in accordance with rules and regulations promulgated by the State Board of Education: The previous year's ADM

participating in alternative education, up to two percent (2%) of the previous year's ADM, multiplied by fifteen hundredths (.15) times the Base Local Revenue Per Student.

(5) Local School Districts shall expend from state and local revenues not less than the following amounts on gifted and talented programs in accordance with rules and regulations promulgated by the State Board of Education: the previous year's ADM participating in gifted and talented programs, up to five percent (5%) of the previous year's ADM, multiplied by fifteen hundredths (.15) times the Base Local Revenue Per Student.

This method places caps on both the number of eligibles as well as total amounts of money to be spent. It also makes no distinction as to programs or revenues received.

If we assume that a district has 13% in special education or that the exceptionalities which exist are more expensive to service, then funds will run out. Two courses of action are then open. Money can be taken from average students and devoted to special education. This destroys vertical equity for average students as well as questioning horizontal equity.

A second alternative would be to cheapen or lessen the service to the special ed child. This is an obvious violation of vertical equity. Hence it must be concluded that neither alternative is proper or legal, if equity is to be attained.

The difficulty arises from sources other than the caps, although it is the main one. A secondary difficulty arises from the fact that the law provides no distinction between type of exceptionality or kinds of vocational programs which students take. Variations in cost are not considered. Therefore in one district the number of high cost children may well exceed the formula driven amounts while in another district with the same proportion of students in low cost programs there may well be a surplus of funds.

Abandoning the weights of prior legislation was indeed an error. Not only is there no distinction as to cost but the two year grace period granted by the court could have been well used to establish them if the weights in other laws were considered erroneous.

Therefore it would seem that the violation of vertical equity is such that the constitutionality of the new law is in serious question.